



# Washington University in St. Louis

## SCHOOL OF LAW

Civil Justice Clinic  
Interdisciplinary Environmental Clinic

February 7, 2013

Julie Capasso  
Freedom of Information Act Coordinator  
Air and Radiation Division  
U.S. EPA Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604-3590

Re: FOIA Request No. EPA-R5-2012-000687

Dear Ms. Capasso:

We have received the EPA's January 22, 2013 email extending the time within which to respond to our September 24, 2012 FOIA request. Although we would like to be able to agree to a completion date of February 28, 2013 as EPA has requested, we are concerned that such a late completion date will leave us unable to respond adequately to the draft significant modification to Title V Permit No. V-IL-1716300103-08-01 (draft permit) for Veolia ES Technical Solutions, L.L.C., which was made available for public comment on January 8, 2013. The comment period ends on March 15, and although we have requested an extension of the comment period pursuant to 40 C.F.R. § 71.11(g), there is no assurance that we will receive one. If EPA denies our request, we will have only 15 days to review what EPA has described as "voluminous responsive hard copy and electronic documents" and prepare and submit our comments on the draft permit.

We submitted our FOIA request to the EPA on September 24, 2012, well in advance of the anticipated draft permit publication date. On October 10, 2012, the EPA responded to our request in a letter stating that due to the large volume of documents involved in our request, the EPA was placing it on the complex track pursuant to 40 C.F.R. § 2.104. On October 29, 2012, the EPA sent a follow-up letter stating that it expected to complete its response to our request by December 3, 2012. On November 15, 2012, we received an email stating that EPA was extending the proposed due date for completion of its response until January 18, 2013 and would work to prepare an interim response by December 3, 2012. However, we did not receive an interim response by that date, and on January 22, 2013, we received another email stating that EPA must extend the estimated date for completion of its response until February 28, 2013.

It has been nearly five months and we have not received any documents from EPA. This is well beyond any reasonable time frame. The new proposed deadline is not acceptable because it is too

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close to the deadline to submit comments on the draft permit and because it is past the date of the public hearing the EPA is holding on the draft permit on February 19, 2013. Not having the documents prior to the public hearing will hinder our ability to present data or arguments concerning the draft permit. Before submitting our FOIA request we discussed it with ARD staff, so EPA has known from the beginning that our interest in the requested documents was to evaluate and comment on the draft permit, whenever it came out. Therefore, we can only agree to the new completion date if EPA extends the public comment period on the draft permit to 30 days from the date the Agency responds to our FOIA request.

Thank you for your time and consideration.

Sincerely,

Kristhy St. Hilaire  
Varsha Mangal  
Kenneth Miller  
Elizabeth Hubertz

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